IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 529 OF 2005

Shri Babu Jinappa Chhatre ... Appellant

V/s

Appasaheb Yeshwant Chougule & ors. ... Respondents

Mr. S.S. Deshpande for the appellant.

CORAM: P.V. KAKADE, J.
DATED: 18TH AUGUST, 2005

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the Addl. District Judge, Sangli, dated 9.7.2004 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Jr.Divn., Miraj, dated 28.4.1989 dismissing the plaintiff's suit for perpetual injunction against the defendants landlord.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff submitted that the suit property which consists of ground floor, open courtyard and two rooms on the first floor alongwith terrace and one terrace on

eastern side alongwith right of taking water and light in municipal limits of Miraj in front of Asha Talkies at Miraj, was exclusively owned by defendant No.1 and he occupied it in July, 1979 on monthly rent of Rs.123/- as a tenant. He further alleged that his possession was being obstructed and hence the suit came to be filed for perpetual injunction.

Defendants contested the suit inter-alia submitting that the allegations made by the plaintiff were not true and, as such, sought dismissal of the suit.

4. The learned Trial Judge adjudicated the dispute on merits and came to the conclusion that the plaintiff had failed to prove that the suit property was not in his possession by virtue of tenancy rights and, as such, he was not held entitled for the consequential relief of perpetual injunction and dismissed the suit.

The appeal was carried to the District Court, Sangli. The learned Addl. District Judge, after hearing both parties, concurred with the findings recorded by the Trial Court. Hence the present appeal.

5. At the outset, it may be noted that there is no

substantial question of law involved in this appeal. The only document relied upon by the appellant-plaintiff is the so-called rent note executed between the parties which is at Exh.69. Apart from the fact that there is no denial of execution of the rent note, the question is whether such rent note on which the plaintiff's suit is based, is admissible in evidence in order to substantiate the claim of alleged tenancy. The rent note discloses that it was executed on 1.6.1979 and, according to the plaintiff, though it was executed for the period of 11 months on 1.6.1979, the period of the tenancy was to expire on 30.4.1980 but the rent note was wrongly written with the period that it was to expire on 31.5.1980. This argument is not accepted by both the Courts below. I do not see any reason why this submission should be accepted in absence of any supportive evidence and it is seen that both the Courts have recorded concurrent findings to the effect that the so-called rent note was for a period of one year and as it was not registered, it cannot be read in evidence and, therefore, the alleged tenancy right of the plaintiff was not proved and hence the suit came to be dismissed. I do not see any reason to interfere with the concurrent findings recorded by both the Courts below. In the result, the appeal has no merits and

stands dismissed with no order as to costs.

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